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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,955	10/03/2003	Robert C. Handberg	117P1835US01	7289
43896	7590	12/14/2005	EXAMINER	
ECOLAB INC. MAIL STOP ESC-F7, 655 LONE OAK DRIVE EAGAN, MN 55121			CHIN, PAUL T	
			ART UNIT	PAPER NUMBER
			3652	
DATE MAILED: 12/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,955	Applicant(s) HANDBERG ET AL.	
	Examiner PAUL T. CHIN	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 7-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

1. Applicant's election with traverse of the species of Figs. 1-3 (Group I), readable on claims 1-4 and 6, in the reply filed on November 29, 2005, is acknowledged. The traversal is on the ground(s) that "Group I and II are classified in the same class and would not be serious burden to the examiner". This is not found persuasive because it is argued that searching for the same class is not necessary easy. Moreover, searching in the other classes (such as 16,220, 206) might be necessary if group II is elected. Groups II and I are related as product and process of using and the process for using the product as claimed can be practiced with another materially different products such as lifting handle or carrier, or a bag handle. The method claim 21 requires placing a handle around a spout, securing the spout to the handle, and lifting the handle and spout to move. The requirement is still deemed proper and is therefore made FINAL. Note that applicant states that the elected species of Figs. 1-3 read on claims 1-7, which is incorrect. Claims 5 and 7, reciting "the base member having a first portion and a second portion and a locking mechanism for securing the portions", as shown in Fig. 4, do not read on the Figs. 1-3. Therefore, claims 1-4 and 6 have been examined and claims 5 and 7 are withdrawn from consideration.

2. Claims 5 and 7-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 29, 2005.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Drawings

4. The drawings are objected to because it appears that the reference number "222" should be changed to -- 22 -- in figure 12. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The exact meaning of the recited phrase "a first side having a first end operatively connected to the first end of the grip section" (lines 6-7 of claim 1) is not clearly

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understood as to how "the first side" is connected to "the first end of the grip section".

Note that "the grip section" includes "the first side".

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1-4 and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Volk (4,772,133).

Volk (4,772,133) discloses a carrying handle comprising an arcuate member (31), a substantially circular (Fig. 2A), a grip section having a base member (51,52), a first side (41) and a second side (40), and the ends of arcuate member capable of being a first position (closer) and a second position (wider) (Col. 2, lines 24-33). It is pointed out that Volk's carrying handle is capable of performing the functional limitations.

Re claim 3, figure 2 shows a first enlarged throat member (60) and a second enlarged throat member (61).

Re claim 6, the handle is one piece. Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

9. Claim 1-4 and 6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Miller, Jr. (6,347,822).

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Miller, Jr. (6,347,822) discloses a bag carrying handle comprising an arcuate member (20), a substantially circular (18) (Fig. 2), a grip section having a base member (22,26), a first side and a second side, and the ends of arcuate member capable of being a first position (Fig. 2) and a second position (wider) (Figs. 3-4). It is pointed out that Miller's bag carrying handle is capable of performing the functional limitations.

Re claim 3, figure 2-4 shows a first enlarged throat member (24) and a second enlarged throat member (24).

Re claim 6, the handle is one piece. Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Volk et al. (5,169,198) shows a bag carrying handle.

Hartwell (2005/0001440 A1) shows a carrying handle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Paul T. Chin", with a stylized flourish at the end.

PAUL T. CHIN
Examiner
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